

ZB# 91-35

Herbert Mason

32-2-9 & 10.41

Palem.

Dec. 9, 1991.

#91-35- Mason, Herbert

Need:

- ① Deeds ②
- ② Title policy
- ③ Photos.

~~CCD not appropriate~~

CCD is applicable
Easement Notified
12/17/91 ~~PHB~~
Procedure for PH. -
to Herb.

Fee: \$150.00 + 250.00 - 123
(Multi-family fee ~~PHB~~)

Notice to Sentinel

on 12/17/91 ✓ mailing 12/18/91

Public Hearing

Jan. 13, 1992.

Area Variances granted

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, N. Y. 12550

General Receipt

12483

February 24 1992

Received of Herb mason

\$ 150.00

One Hundred Fifty and 00/100

DOLLARS

For Zoning Board Application Fee - #91-35

DISTRIBUTION:

FUND	CODE	AMOUNT
<u>CR #9359</u>		<u>150.00</u>

By Pauline D. Townsend

Town Clerk

Title

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION) ZBA

APPLICANT: Mason, Herbert

FILE # 91-35

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 150.00 pd. 12/17/91

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 250.00 pd. 12/17/91

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE	<u>12/9/91 - 14 pgs.</u>	\$ <u>63.00</u>
2ND PRELIM. MEETING - PER PAGE	<u>1/13/92 - 10 pgs.</u>	\$ <u>45.00</u>
3RD PRELIM. MEETING - PER PAGE		\$ <u>45.00</u>
PUBLIC HEARING - PER PAGE	<u>1/13/92 - 10 pages</u>	\$ <u>45.00</u>
TOTAL		\$ <u>108.00</u>

ATTORNEY'S FEES:

PRELIM. MEETING -	<u>1 hr.</u>	HRS.	\$ <u>150.00</u>
2ND PRELIM.		HRS.	\$ <u>150.00</u>
3RD PRELIM. PH	<u>.08</u>	HRS.	\$ <u>12.00</u>
FORMAL DECISION	<u>0.2</u>	HRS.	\$ <u>30.00</u>
TOTAL HRS.	<u>3.8</u>	@ \$ <u>150.00</u> PER HR.	\$ <u>570.00</u>
TOTAL			\$ <u>570.00</u>

MISC. CHARGES:

None

TOTAL \$ 678.00

+ 428.00

LESS ESCROW DEPOSIT \$ 250.00
(ADDL. CHARGES DUE) \$ 428.00 due paid
REFUND TO APPLICANT DUE \$ 938.00

938.00
2/20/92

cc: Applicant

NEW WINDSOR ZONING BOARD OF APPEALS

-----X

In the Matter of the Application of

HERBERT MASON,

DECISION GRANTING
AREA VARIANCE

#91-35.

-----X

WHEREAS, HERBERT MASON, residing at 110 Mt. Airy Road, New Windsor, N. Y. 12553, has made application before the Zoning Board of Appeals for (1) 23.3 ft. rear yard variance for Lot #1; (2) 20.4 ft. set back from mobile home park property boundary line variance for mobile home per Section 27A-19 of the Mobile Home Law on Lot #2; (3) 7 ft. set back variance for accessory building (shed #1) on Lot #2, per Section 48-14A(1)(b), (4) 5 ft. set back variance for accessory building (shed #2) on Lot #2 per Section 48-14A(1)(b); (5) 95 s.f. lot area variance for Lot #3, all of the above variances required in order to obtain a lot line change and subdivision of property located at the above address in an R-3 zone; and

WHEREAS, a public hearing was held on the 13th day of January, 1992 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, applicant, HERBERT MASON, appeared in behalf of himself and spoke in support of the application; and

WHEREAS, there were several spectators present at the public hearing. Two spectators, Abby Cirillo and Larry Bullock, expressed concern about a mobile home park located upon a different parcel of real property than the property owned by the applicant which is the subject of this application. This mobile home park has no relation to the applicant's property or the application before the Board. Upon hearing this, the said two spectators stated that they had no objection to this application; and

WHEREAS, the Board received two identical letters from residents of the area which requested denial of the variance which would allow undersize lots and insufficient set backs. Neither letter writer spoke at the public hearing. The Town of New Windsor Building Inspector, Michael Babcock advised the Board that many of the residents of the neighborhood were confused about the application and thought that the requested variance applied to proposed new construction; they misunderstood the applicant's request, which applies only to existing construction; and

WHEREAS, the Board also received correspondence dated 12/31/91 from the City of New York Department of Environmental

Protection which stated that the City objected to the granting of the variances that set back distances and also requested that a 7 ft. high chain link fence be erected along the City's property. The writer of the letter apparently was unaware that the reduction in set back distances which are the subject of this application are far from the City's Catskill Aqueduct, results in no change of existing conditions, and that there is presently a fence erected along the City's property; and

WHEREAS, the Board also received correspondence dated 12/30/91 from Orange County Planning and Development which returned the matter for local determination; and

WHEREAS, the application was otherwise unopposed; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the provisions of the bulk regulations pertaining to rear yard, set back from mobile home park property boundary line for mobile home, set back requirements for accessory buildings and lot area in order to seek a lot line change as a result of subdivision of applicant's parcel.

3. The evidence presented by applicant substantiated the fact that a variance for less than the allowable rear yard set backs, and lot area would be required in order to allow a lot line change after subdividing property which otherwise would conform to the bulk regulations in the R-3 zone and Mobil Home Law.

4. The evidence presented by the applicant indicated that he is seeking to separate his residential dwelling from the main property and the creation of new lot lines would require several area variances under the provisions of the bulk regulations in the Zoning Local Law and Mobile Home Laws with respect to the pre-existing non-conforming structures on the applicant's property.

5. The evidence presented by the applicant indicated that the trailer park was developed in the 1950's and that the house was constructed in the early 1960's. Thus, it is the finding of this Board that the improvements for which variances are sought on this application pre-date the adoption of both zoning and the Mobile Home Law in the Town of New Windsor. Hence, said structures are pre-existing and non-conforming in their present location.

6. The instant application arises because this applicant

seeks a lot line change to separate his house from the balance of property, which has mixed uses, to eliminate a property line which resulted from the applicant acquiring two contiguous properties from two different chains of title and to create a separate tax lot for a parcel which is de facto subdivided from applicant's other lands by virtue of being separated therefrom by Mt. Airy Road.

7. The evidence presented by the applicant further indicated that all the improvements shown on the minor subdivision plan are existing; no new construction is proposed as part of this application.

8. The evidence presented by the applicant indicated that the applicant seeks to separate his house from the balance of the property, which is devoted to mixed uses, and which predates zoning in the Town of New Windsor.

9. The evidence presented by the applicant indicated that he cannot relocate the trailers to reduce or obviate the need for variances because the present location of the trailers and their existence in that location is registered with the Housing Authority.

10. The evidence presented by the applicant further indicated that he cannot relocate the sheds to reduce or obviate the need for a variance because one shed was erected to comply with DEC requirements for an oil tank and the second shed cannot be located in front of the trailer, nor over nearby water and sewer lines.

11. The evidence presented by the applicant indicated that since the house and the trailer/sheds are on opposite sides of the same proposed property line, any reduction in proposed variance on one side of the line will conversely increase the variance needed on the opposite side of the same property line.

12. It is the finding of this Board that the applicant would suffer significant economic injury from the strict application of the bulk regulations because if the required variances were not granted, he would be unable to subdivide a large parcel of land legally devoted to mixed uses and the structures thereon are non-conforming and pre-existing. Additionally, no alternative layout would obviate the need for some bulk variances on the proposed Lot #1 and Lot #2.

13. The evidence presented by applicant substantiated the fact that he has offered the Town of New Windsor a gratuitous 25 ft. right-of-way on each side of the center line of Mt. Airy Road for future road widening purposes, thereby creating the undersized Lot #3. Applicant must seek a lot area variance to compensate for this shortfall, which results solely from the gratuitous granting of a right-of-way to the Town of New Windsor.

14. It is the further finding of this Board that the applicant would suffer significant economic injury from the strict application of the bulk regulations to his Lot #3 since the deduction of the 25 ft. right-of-way to the town for the future roadway creates an undersized lot and forces applicant to apply for a lot area variance to make up for the deduction. The applicant should not be penalized for gratuitously granting a right-of-way to the Town of New Windsor for future road widening.

15. It is the finding of this Board that the applicant has made a sufficient showing of practical difficulty, entitling him to the requested variances.

16. The requested variances are not substantial in relation to the bulk regulations for rear yard set backs and lot area given the fact that there will actually be no additional construction taking place on either parcel and the existing parcel will remain essentially the same except for the lot line change.

17. The requested variance will not result in substantial detriment to adjoining properties nor change the character of the neighborhood.

18. The requested variance will produce no effect on the population density or governmental facilities.

19. There is no other feasible method available to applicant which can produce the necessary results other than the variance procedure.

20. The interest of justice would be served by allowing the granting of the requested variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT (1) 23.3 ft. rear yard variance on Lot #1; (2) 20.4 ft. set back from mobile home park property boundary line for mobile home (per Section 27A-19 of the Mobile Home Law) on Lot #2; ~~per Section 48-14A(1)(b);~~ (3) 7 ft. set back for accessory building (shed #1) on Lot #2 per Section 48-14A(1)(b); (4) 5 ft. set back for accessory building (shed #2) on Lot #2* (5) 95 s.f. lot area variance for Lot #3 in order to allow applicant a lot line change on his property which is located in an R-3 zone in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

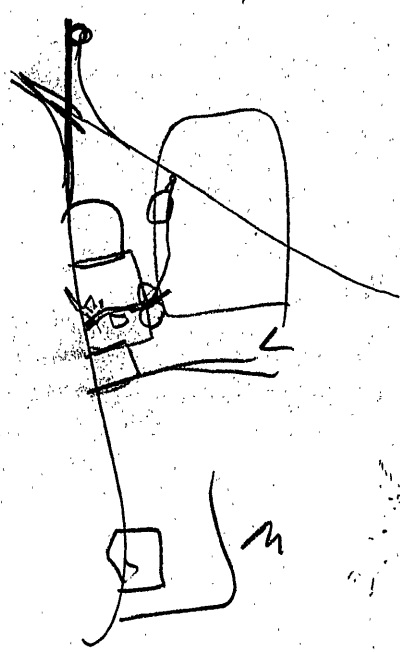
* PER SECTION 48-14A (1) (b);

Dated: January 27, 1992.

Chairman

(ZBA DISK#4-053085.FD)

[Handwritten signature]



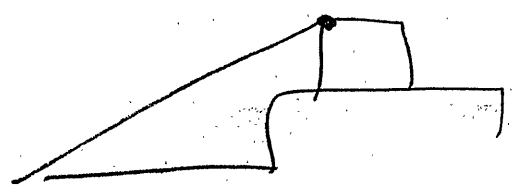
\$150
\$500

37
16



29
21

27
17





TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(914)563-4630

February 4, 1992
FAX: 914-563-4693

Mr. Herbert Mason
110 Mt. Airy Road
New Windsor, N. Y. 12553

RE: APPLICATION FOR AREA VARIANCES - ZBA FILE #91-35

Dear Ms. Mason:

Please be advised that your checks deposited with the ZBA did not cover the expenses incurred with regard to the above-entitled application for area variances.

Kindly forward additional fees payable to the Town of New Windsor in the amount of \$428.00 so that we may close out this file.

Thank you for your anticipated cooperation.

Very truly yours,

PATRICIA A. BARNHART
Secretary

/pab

*Paid
2/20/92*



MARY MCPHILLIPS
County Executive

Rec'd. ZBA
1/2/91 (PAB)

**Department of Planning
& Development**

124 Main Street
Goshen, New York 10924
(914) 294-5151

PETER GARRISON Commissioner
VINCENT HAMMOND Deputy Commissioner

**ORANGE COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT
239 L, M or N Report**

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and Countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by Town of New Windsor D P & D Reference No. Nwt-40-91M
County I.D. No. 32 / 2 / 10.41⁹

Applicant Herbert/Barbara Mason

Proposed Action: Area Variance - To allow for a subdivision

State, County, Inter-Municipal Basis for 239 Review within 500' of NYS Hwy Rt. 207.

Comments: There are no significant inter community or county wide concerns to bring to
your attention.

Related Reviews and Permits _____

County Action: Local Determination XX Disapproved _____ Approved _____

Approved subject to the following modifications and/or conditions: _____

December 30, 1991

Date

B. Vincent Hammond (Carol)
Commissioner

Date 1/22, 1992

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12550

TO Frances Ruth 389 Moores Hill Rd DR.
New Windsor NY 12553

DATE			CLAIMED		ALLOWED	
1/13/92		Zoning Board Meeting	75	00		
		Miscellaneous Spgs	36	00		
		Toyota 7pgs	31	50		
		Mason 10pgs	45	00		
			187	50		

Postel

January 13, 1992

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PUBLIC HEARING: HERBERT MASON

MR. FENWICK: This is a request for (1) 23.3 foot rear yard variance for subdivision of Lot #1, (2) 20.4 foot setback for mobile home and 7 foot and 5 foot setbacks for accessory building (sheds) on Lot #2 and (3) 95 square foot lot area variance on Lot #3 for property located on west side of Mt. Airy Road in R-3 zone.

Mr. Herbert Mason came before the Board representing this proposal.

MR. FENWICK: Tell us what you're proposing here.

MR. MASON: For estate purposes, I want to separate my house from the main piece of the property. I have a trailer park on the land that was there since the 50's, the house was built in the early 60's. And by establishing a property line around the house to separate it from the other property, I run into the problem with the sheds and trailers behind my house. In other words, there is no line there now so I have enough room but if I put a line then there isn't.

MR. FENWICK: You had some drawings? Since the last meeting, nothing on this has changed?

MR. MASON: No, nothing has been changed. Nothing has been added. Everything that's there is there. I'm putting a boundary line between the trailer park and my house.

MR. BABCOCK: Just for the record, since the last meeting, we have made up new denials as requested for the Board. One for each lot so it would be clear.

MR. FENWICK: That's what we asked.

MR. MASON: I have another map here if somebody needs it.

MR. FENWICK: Mr. Mason, I'd like you to put this up on the board and address each one of the variances that are necessary so that everybody understands. You can take these anyway you want or you can take them the way it shows.

MR. MASON: Well, my main concern is Lot 1, I want to separate that from the property.

MR. LUCIA: Why don't we do them one at a time, just explain to the Board lot 1 your variance is for 23.3 feet, rear yard.

MR. MASON: Right. Like I say, the trailer park is right behind my house. When I originally built the house, a fence was put around where that line goes now. And the property line will follow that fence. Now, the trailer is where it is. My house is where it is when I put the property line in then by the required yardage that zoning requires of which there was none when we built these, the trailer is not far away enough from the lot line on the house and the house is not far enough away from the lot line. In other words, I cannot move the lot line closer to the trailer and I can't put it closer to the house because I'm short now.

MR. LUCIA: Not 40 feet between the house and the trailer, is that correct? And your second variance request is for 20.4 foot setback for the mobile home that would be on lot 2, I believe.

MR. MASON: That is right here, right behind this.

MR. LUCIA: Is that the other side of the same coin, that trailer sits to close to the --

MR. MASON: To the lot line, if I put a lot line.

MR. LUCIA: To comply with the 30 foot setback requirements, is that correct?

MR. MASON: That is a trailer immediately behind the house. Now, there's two sheds also on that lot, now one is the fuel tank that the DEC required me to put a holding tank under and that is, has a roof over it to keep rain water out of the holding tank. One shed is actually a covered fuel tank.

MR. LUCIA: And the second shed is just storage?

MR. MASON: That is where he stores lawn mowers and stuff and he put the shed behind the trailer where it doesn't show.

MR. LUCIA: On the two sheds, if I understand this correctly are respectively 3 feet and 5 feet off the property line and 10 foot across the property line so that is what is generating the need for lot 2 for a 7 and 5 foot variance request, is that correct?

MR. MASON: Correct.

MR. LUCIA: And physically you cannot get the property line 10 feet away from it without further, it would be reducing the rear yard on the house, increasing that variance. It's two sides of the same line, really for lot 1 and 2, is that correct?

MR. MASON: Right.

MR. LUCIA: And turning to your third variance request for or fourth variance request of the third lot is the lot across the street that was for 95 square foot lot area variance on lot 3.

MR. MASON: When I made a application to the Planning Board, they asked me to donate 25 feet of the land from the center of the road for highway purposes. My lot is big enough now if I don't give the town the land. But, if I give the town the land, then I'm 95 square feet short of having the required lot size.

MR. LUCIA: If you didn't give the town the land --

MR. MASON: I wouldn't need the variance.

MR. LUCIA: The only reason you're here is because you're freely giving the town 25 foot right-of-way?

MR. MASON: Yes.

MR. LUCIA: And you're not charging the town for that?

MR. MASON: No.

MR. LUCIA: Is there anyway you know of that you could do this same subdivision or lot line change without a need for variance?

MR. MASON: It would be impossible, virtually impossible. Trailers, I can't move they are under the Housing Authority of New York. In other words, I can't

say you have to leave because I want the property. That doesn't work.

MR. LUCIA: If you didn't get this, these variances, you would be suffering significant economic injury, you couldn't subdivide the land?

MR. MASON: I couldn't subdivide the land, correct.

MR. TORLEY: Sir, one question, the shed shown on the northern edge overlapping the property lines.

MR. BABCOCK: Yes, they have been advised. This trailer park is under annual review every year. This survey came in under that review and this, the owners of this mobile home, the owner of this shed has been advised that they have to move that. I hope that it was moved by now. I'm not sure that it is but if it isn't, it will be.

MR. FENWICK: That is an existing lot line that has nothing to do with what we are talking about.

MR. NUGENT: Which one of these sheds is the oil tank on and which is for the trailer?

MR. MASON: This is the oil tank.

MR. NUGENT: Is there any reason that this shed couldn't be moved forward a little bit?

MR. MASON: It would be in front of this trailer, if you pulled it over here, it would be.

MR. NUGENT: Is that a manhole or is that where the lines connect?

MR. MASON: That is water lines and sewer lines come down through here. That is a cleanout, I believe, where that hole is. I couldn't put the shed here. It's way in the front and moving it over does not change the distances. I'm still not --

MR. LUCIA: There is no other location for those that would require a smaller variance, is there other than what you proposed to us?

MR. BABCOCK: Typically, we will not let him put a shed

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in front of the structure, that's our, you know --

MR. NUGENT: I didn't ask him to put it in the front but move it forward but there's a manhole there so he can't do it.

MR. LUCIA: Since it's two sides of the same lot line, there is no way of getting a smaller variance.

MR. MASON: Then it's worse on the other, no matter which way I move it, it's creating a problem.

MR. FENWICK: Any other comments from the Members of the Board? At this time I'll open it up to the public. Please try to be brief, listen to the person who speaks before you so you're not saying the same thing over again. When you're recognized, please stand and give your name and address.

ABBY CIRILLO (PHONETIC): I live at 7 Elizabeth Lane. I just wanted to make sure actually because he has property on the other side. Is that going to effect us at all, the property on the other side where you're staked out where the well is?

MR. MASON: No, no, there's no sheds there.

MR. FENWICK: Nothing is going to be built. Everything is already there.

MRS. CIRILLO: He has another lot that's where we thought he was going to put the thing so everything is okay.

MR. TORLEY: Is that your lot #3 on the map?

MR. MASON: No, it's another lot.

MR. LUCIA: Mrs. Cirillo, you have no objections to the proposal Mr. Mason has before the Board now, is that correct?

MRS. CIRILLO: Not as long as he doesn't go across the street then it's fine.

MR. LUCIA: When she says across the streets, she's not talking about this lot across the street.

MR. MASON: No.

MR. LUCIA: All three variances are shown on this map. You're welcome to look at it.

MR. FENWICK: Any other comments from the members of the audience?

LARRY BULLOCK (PHONETIC): 8 Elizabeth Lane. The reason that I was, matter of fact I was so concerned I took off work tonight because there has been a lot of excavation in this area, particularly on Elizabeth Lane and behind Elizabeth Lane with another trailer court and no town meetings to my knowledge have been called that we have been invited to. Variances have been granted. I for one am very upset by it because it effects my property.

MR. FENWICK: This Board doesn't, there was no variance granted by this Board for any trailer parks at all. I'm not trying to put it off.

MR. BULLOCK: I have it in my back yard so don't tell me it didn't happen.

MR. BABCOCK: Eight lot extension of Silver Stream Trailer Park behind this gentleman's house which was approved by the Planning Board. The Planning Board is not subject or that would not be subject to or they did waive the public hearing so that no neighbors would be notified.

MR. LUCIA: Mr. Bullock, this is the Zoning Board of Appeals. The application did not ever come before this Board. It went to a different Board in the town call the Planning Board.

MR. FENWICK: We are not trying to put you off or anything.

MR. BULLOCK: If you understand my point as a resident, it makes no difference which Board. The deed was done and I was effected, my property was effected.

MR. LUCIA: This Board does not mean to turn a deaf ear. If you have a legitimate concern, voice it to the town. This Board has a very limited jurisdiction, all that is before us now are the variance requests that

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are shown on Mr. Mason's map. If you have a comment on those, we'd be perfectly happy to hear it but comments with regard to other pieces of land have to be made to different authorities.

MR. BULLOCK: I understand that and no objection to that. I just want the Board to be aware that these, you're an authority, the only ones I have to talk to, I have been back and forth to your office. I'm letting you know if you invite me and if it effects my property, I'll be here but --

MR. FENWICK: This Board cannot do anything without a public hearing so if it was before this Board, you would have heard about it.

MR. LUCIA: Do you have any objections to this proposal?

MR. BULLOCK: No.

MR. FENWICK: No one else in the audience have any comments? At this time I'll close the meeting to the public and open it back up to the Board. I have some letter here which I'll read. I wish these people had come here tonight because I have got a feeling they are not really realizing what is going on.

The first one is addressed to our Board by way of Pat. And it reads as follows:

As a homeowner on Mount Airy Road\Elizabeth Lane, I request that you deny the variance that would allow for the subdivision of land parcels that would result in undersize lots and the insufficient setback for a house trailer.

We are a neighborhood of homes on one acre lots and feel that this variance would deflate the values of our homes.

This letter is sent in place of my appearance that is scheduled for January 13th, 1992.

And it's signed by Ida Pacione. The letter is dated January 2nd, 1992.

MR. BABCOCK: I might be able to save you a little

breath. That letter was passed around the neighborhood and asked people to sign it so --

MR. FENWICK: There is a second letter identical to the first and it is signed by Colleen Morris, 11 Elizabeth Lane. The first one is Mrs. Pacione, 129 Mt. Airy Road. Unfortunately, they were not able to come here so they are not familiar with what is happening.

MR. BABCOCK: They are not. We have got several phone calls people asking me there is another trailer being placed on the lot, they are building another house on the lot. It's unclear. You have so many different rumors, you're dealing with a trailer park, you're dealing with a single family, you're dealing with a business, you're dealing with so many different things and all the variances are all the way around so people are misunderstood about what is going on.

MR. FENWICK: The next letter from the Orange County Department of Planning and Development who none of these people talked to because their answer is there are no significant intercommunity or countywide concerns to bring to their attention.

MR. LUCIA: You also got a letter from the City of New York.

MR. FENWICK: Yes, I'm going to read that right now from the Department of Environmental Protection Agency. It is addressed to me and the Board of Appeals.

Dear Mr. Fenwick: This pertains to a request by Herbert and Barbara Mason for a variance of the regulations of the Zoning Local Law with respect to setbacks.

Please be advised that this Department opposes the granting of variances that reduce setback distances. We are especially concerned with the proximity to the City's Catskill Aqueduct.

Before the Board's final decision, we would appreciate it if the Town required the applicant to erect a substantial seven (7) feet high chain link fence along the City's property line separating subject parcel (s) from City property thereby preventing trespass/dumping on the

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Catskill Aqueduct.

Very truly yours, Marilyn Shanahan, Acting Manager.

MR. FENWICK: Am I to understand that there's a fence back there?

MR. MASON: It's there, the fence is there.

MR. FENWICK: Let the record show that there is a fence back there and this is signed by Marilyn Shanahan, Acting Manager. It is unfortunate Ms. Shanahan was not here to find out the actual case so we'll file this letter.

Any more comments from the Members of the Board? Dan, are we satisfied?

MR. LUCIA: Yes.

MR. FENWICK: Has everything been brought that we requested?

MR. LUCIA: Yes, Herb had dropped off at my office copies of the deeds and some other things. I couldn't entirely figure out the chain of title because this goes back quite a ways. Just to cover any gaps are you aware of any covenants or restrictions affecting the title to these properties which would in any way prohibit the variances you are requesting from the Board?

MR. MASON: No, there are none that I'm aware of.

MR. LUCIA: That is fine, thank you.

MR. FENWICK: Any other questions from the Members of the Board?

MR. LUCIA: I think Herb supplied some pictures we had asked for of the proposal. Maybe you can explain to the Board which way these are taken or show them on the map so they can see which line is which.

MR. MASON: This is in the corner of my mother's house. My house sits over here. This is the end of the fence going down to the road.

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MR. LUCIA: Referring to the lower photograph on the page.

MR. MASON: The other way is looking from that corner of the fence across between the trailer and the house. And there is another shed behind that that doesn't show.

MR. LUCIA: When you say the other one, you mean the top photograph?

MR. MASON: Yes, top photograph. I stood in the corner and took one picture down and one across.

MR. LUCIA: Thank you.

MR. FENWICK: No other questions from the Members of the Board and the attorney is satisfied. I'd like to ask for a motion to grant the variances.

MR. NUGENT: I'll make that motion.

MR. LUCIA: Consider them all together?

MR. NUGENT: Yes.

MR. TORLEY: I'll second it.

ROLL CALL:

Mr. Torley	Aye
Mr. Konkol	Aye
Mr. Nugent	Aye
Mr. Fenwick	Aye

[illegible]

December 9, 1991

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PRELIMINARY HEARING: MASON, HERBERT

MR. FENWICK: This is referred by the Planning Board in conjunction with a lot line change. Request for (1) 23.3 rear yard variance for Lot #1; (2) setback variance for trailer on Lot #2 (9.6 feet provided, 30 feet required); and (3) setback variance for accessory buildings on Lot #2 (10 feet required) for property located on west side of Mt. Airy Road in an R-3 zone.

Mr. Herbert Mason came before the Board representing this proposal.

MR. LUCIA: Before we begin on Mr. Mason, I just want to put something briefly on the record. I for quite a number of years have represented Mr. Mason and recently started representing Herb and also his mother. I told them when he came in that it appeared that they'd need both Planning Board and Zoning Board approval. I could not represent them in that regard. I'll do some deeds for them but I have no interest in and do not represent them on this application. I just wanted you to know going in anyway. Tell them what you want to do.

MR. MASON: I want to separate my house from the main property is what I want to do so when I put a line in to separate my house from the property, it creates those clearances. Everything has been there, the trailer park was put in in the 50's, the house was built in the late 60's or 1970. So, there's nothing being built, just separating the properties.

MR. BABCOCK: There's a lot line here you see in the back of the property.

MR. MASON: In the back there's a piece I bought from our neighbor.

MR. BABCOCK: See that line, that line goes out.

MR. MASON: And make new deeds for these when they get approved.

MR. BABCOCK: And he's adding the darkened line around the house. What happened was when we went to the Planning Board, it's unclear, okay, and you can see it by just looking at the map. The Planning Board

suggested that since we are creating the lot lines, the sheds and the house and everything else were nonconforming pre-existing and have been there forever. Since we're creating the lot line, now we're creating the need for a variance.

MR. FENWICK: Are the sheds that we are talking about the ones that are closer here?

MR. BABCOCK: Yeah, those two, right, because this is the line they are putting in.

MR. LUCIA: In that connection, while you're looking at it, the notice of denial that you received on those setbacks for the sheds involved a 9.6 foot offset. I think that's only measured from the new property line. You notice up on the very top of the map and I guess it's the north, the east side of the property, there may be a clearance problem with the sheds on the house trailers up there. They went to the Planning Board, they only figured the offsets off the new property line and construed everything else on the property as being pre-existing. I have no problem with that interpretation, but I think you're entitled to take a look at it just to see if you agree with that. Or if you feel a need to have Mr. Mason apply for all variances you see on that map at this time. I suppose it will cover.

MR. KONKOL: What about this shed that the line goes right through it?

MR. LUCIA: We cannot grant a variance to let him put his shed on the neighbor's property.

MR. MASON: That is not my shed so --

MR. LUCIA: Again, on that one, if you chose to make the part of the application you can handle it as zero clearance but you can't allow him to do that.

MR. BABCOCK: They have been informed to move the shed. This part is an annual trailer park review. The Planning Board reviews it. These sheds where they are located now with the exception of this one that's across the property line where they have been informed to move it to get it back on the property line within 10 feet have been approved by the Planning Board for

locations and has been for, I don't know how many years. Every year they come in for the annual review. What the Planning Board has said at their meeting is that since they had put this line in, that they felt that these two sheds are creating the line, these two sheds will be one if the Board feels different that's fine too.

There's one other thing, there's a lot across the street, it's been my opinion and from Tad Seaman that if there is a lot that's created by a natural subdivision by a road, it forms a lot. Mr. Mason is proposing to give 25 feet of his property from the center line so that in the future, they can widen Mt. Airy Road. By doing that, he comes under the allowable amount for square footage on this lot. So, it's to the Board's wishes he needs 21,780 and he's got 21,685, he's 95 feet short.

MR. KONKOL: But he would be over that if he kept it?

MR. BABCOCK: He doesn't have to give that piece of property to the Town of New Windsor. He's doing it for road purposes which we typically ask. He has two options, he either can if this Board wishes to direct him to go ahead and apply for a variance of that amount or he can go back and have the amounts corrected and put that amount back into his property.

MR. FENWICK: Only needs 95 feet with the amount back in so even if he were to take a foot back, he'd get 309 feet.

MR. BABCOCK: Right, we either want him to give us 25 feet or nothing. The thing is we don't want property lines going like this. We are looking for 50 foot easements for our road and we don't want his property at 49 feet the next one at 39 feet, the next one at 52 feet. We are trying to be consistent and take either 50 or nothing. We would like to have the 50 to be very honest with you. If this Board, what the applicant is going to say is that if he can't get a variance on this lot, he's not going to give it to the town.

MR. KONKOL: Would you give the 50 foot, Herbie, would you give them 50?

MR. MASON: Twenty-five (25) on each side of the road.

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right.

MR. BABCOCK: He's also giving a good piece on the other side.

MR. KONKOL: We are talking about 90 feet so that could be included in his application.

MR. BABCOCK: Right, I didn't, we didn't write it up in the application because we didn't know what the Board wanted to do. We are going to have to revise the application.

MR. KONKOL: Might be good to have it in there and get it done at one time.

MR. NUGENT: I agree.

MR. LUCIA: The only issue that raises depending on the layout he ultimately chooses, if he wants to put a house, he may still have to come back for front yard, rear yard, variances because of the unique triangular shape but he's willing to proceed just on the lot area variance and depending on the future layout.

MR. FENWICK: Are you getting, is the town getting the 25 feet from the other people, I see the next one up is him anyway.

MR. BABCOCK: Well, what happens is we are not going to go in and ask for that now but if they come in for something, we'd ask for that.

MR. TANNER: What if they say no, you lose one.

MR. BABCOCK: That is the thing, that's the chance you take, when you can ask for it. This man is here to ask for our approval on something so we feel justified to ask for something from him. As the next applicant comes in, if the Town of New Windsor decides to widen that road, they'd have to do a taking all the way along. Where we can get it, we'd like to try. It's one less taking we'd have to get if we did want to widen the road.

MR. TANNER: That's what I was asking, you can take it.

MR. LUCIA: Than have to pay for it.

MR. BABCOCK: We might, we might not have to pay. Very good chance of that. What the applicant has said is that and Dan said it before is that if this project, if the variances are given and he goes back to the Planning Board and seeks final approval, he'll file three new deeds, 1, 2, and 3 thus creating tax map parcel for each one and that would straighten the whole thing out. And then that would, you'd have to do a description to get to the town on both sides of the road.

MR. FENWICK: He's going to have a substandard lot here as a favor to the town.

MR. BABCOCK: Right.

MR. FENWICK: And that's if, in other words, if this lot were to stay at this, no problem.

MR. BABCOCK: If he came in yesterday or if he comes today before this is granted, he can have a building permit.

MR. FENWICK: For what the property is going to cost, what if the town pays for his application?

MR. BABCOCK: Well, the thing is he has some other problem areas here for variances so we figured if it's the pleasure of the Board, we'll do it all at once. This way if he doesn't have to come back, it won't cost him anything for this lot.

MR. NUGENT: It's known as let's make a deal.

MR. FENWICK: That's what it sounds like to me.

MR. BABCOCK: I only work here, trying to do the right thing.

MR. FENWICK: You own all of this now and you're going to keep owning it?

MR. MASON: Yes, yes.

MR. FENWICK: The back part?

MR. MASON: I'm just separating my house from the main

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property.

MR. NUGENT: You have your business in one of them, don't you?

MR. MASON: In the front garage.

MR. LUCIA: The referral from the Planning Board sent this here for interpretation and/or variances and Mr. Mason chooses to apply for this and it's coming to us really on variances. Looking first at the variances that are related to the new property line on that new back line, we have on lot 1 a rear yard variance to the one-family dwelling distance there is shown as 16.7 feet and that generates the need for a 25.3 foot variance. The offsets on the house trailer immediately behind it on lot 2, minimum is 9.6 feet and that generates the need for a 20.4 foot variance since it's a 30 foot setback on the house trailer section of the ordinance, is that correct, Mike?

MR. BABCOCK: Excuse me, I am sorry.

MR. LUCIA: Thirty (30) foot setback is required on the house trailer section of the ordinance?

MR. BABCOCK: Yes, the new ordinance today if you were going to build a mobile home, the closest you can get with a mobile home is 30 feet so that is what we picked.

MR. LUCIA: That is under Section 27A-19A. Question arises there's a shed. I guess one of which is for an oil tank.

MR. MASON: One is oil tank.

MR. LUCIA: The other is a storage shed, we don't show offsets on those. We probably should. Have Mr. Valdina do the calculations.

MR. BABCOCK: That is the new map we have tonight.

MR. LUCIA: I guess I'm looking at the old map.

MR. BABCOCK: There's a new map. I'll tell you why there's a new map. When we first talked to Mr. Valdina --

MRS. BARNHART: What is the date on the one you're looking at, the new one?

MR. LUCIA: Looks like December 9th, 1991.

MR. BABCOCK: The reason for that was is that this gentleman has a central water system on his property, you can see by the easements. When we first talked to his architect and surveyor, we had told him that the requirement was 32,780. We didn't give him the benefit of having central water. That was the numbers changed in the box. The map stayed the same. Requirements should have been 21,780 and that's our mistake so we had the surveyor change it.

MR. FENWICK: You mean there's water that's already across the road?

MR. BABCOCK: There's no water across the road but it's available to be there, you know, it's not there, it's not hooked up because there's not a house.

MR. FENWICK: But --

MR. BABCOCK: He's got a license, Orange County Health Department license and everything for it. That was another question we had when we went to the Planning Board to make sure that we were able to give him the benefit of a central water system.

MR. LUCIA: On those two sheds by the trailer, we show an offset distance now of 3 foot on one and 5 feet on the other, if I'm reading that correctly.

MR. BABCOCK: Right, 3 foot and 5 foot.

MR. LUCIA: And the setback requirement there is 10 feet from the property line under Section 48-14A1B. So, on those, we'd have variance request goes to where we have 7 feet and 5 feet that takes care of all the side yard requirements on the new property line. I don't know how the Board wants to handle the trailers that go to the pre-existing property line that's not involved. The Planning Board sent it here for interpretation and/or variances. We can handle it whatever this Board's pleasure is.

MR. FENWICK: If we are going to act on that one piece of property, everything on that line, I'm not even concerned with the back piece. If he runs into a problem, he's going to have to come back or do something about that but right now, we are piling on and piling on this one piece of property.

MR. BABCOCK: Briefly I'll run, just for the record, I'll run through them now that we are setting it. The first variance would be for lot area or for rear yard setback for lot 1, that would be for the framed dwelling. He's requesting a 23.3 foot variance for rear yard. Number 2 would be the trailer and the request would be 20.6 foot setback. Number 3 would be the two sheds and one request would be 7 foot, shed #1. Shed #2 would be 5 foot and the fourth one would be lot area for lot 3 across the street. He'd be requesting 95 foot lot area variance. So, there's actually five different variances. I have one correction on the trailer is 20.4 feet.

MRS. BARNHART: You said 20.6?

MR. BABCOCK: Yes, I corrected it.

MRS. BARNHART: Okay, 20.4.

MR. FENWICK: Dan, I don't know if there's, I'm sure there's not going to be a problem here. We are looking at actually three separate parcels of property, correct?

MR. LUCIA: Well, the reason it's coming in as a lot line change it now is two parcels of property, the existing deed apparently combines in one or more deed descriptions. The Planning Board had trouble with what is shown here as parcel #3 with everything else that's up to this line that says deed line at the left portion that's all I guess within one deed, although since it's on separate sides of the road, I guess it's a defacto subdivision and could be sold off separately although the Planning Board had a little trouble with that. What we are doing is the back piece between the City of New York Aqueduct property and Mr. Mason and Vesley. Vesley's original piece was acquired from an owner on the opposite side of the aqueduct. He's removing this property line and adding new property line to separate off the house so I guess in terms of horse trading,

you're exchanging one property line for another. That's how it comes in as a property line.

MR. KONKOL: How is this as far as deeds? Is this one parcel, two parcels, three parcels?

MR. LUCIA: It will be when he's through with his Planning Board application.

MR. BABCOCK: Right now, he actually has, if you want to say he has two parcels, one in the back, and one here. Legally speaking, if the road creates a natural subdivision, it's a separate parcel but there's no separate deed to it. By doing this, what we're doing tonight is going back to the Planning Board then he'll file three new deeds and there will be three new lots with three separate tax parcels.

MR. FENWICK: There should be a decision per lot, shouldn't there because when it goes in, doesn't the decision on a piece of property run with that piece of property and now we have created or if it happens there are three separate pieces of property created so there has to be a decision that's going to be with #1 a decision that goes with parcel #1 and a decision that goes with parcel #3 and so on. To think about it when he comes back for his formal decision granting or denial, you're going to have to make three separate motions.

MR. BABCOCK: If you like, I'll make three denials for lot #1, 2 and 3.

MR. FENWICK: That might be the thing to do. If somebody happened to look up this parcel of land, they are looking at the decision that doesn't get stuck with another parcel of land.

MR. BABCOCK: It's going to be a lot clearer too. Then the denial will go with the piece of property that makes it simpler, that's easy.

MR. LUCIA: That's fine.

MR. FENWICK: I don't think the applicant should be required to pay three separate application fees.

MR. LUCIA: It can be done as part of one decision and

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we can just have a variance #1 applies to lot #1, variance #2 applies to lot #2, whatever the case may be.

MR. FENWICK: Let me just ask in reference to our difficulty why are you separating a piece of property in that way?

MR. MASON: Why am I separating it in that way, my mother and I both own the whole thing in total right now. Mother is 87 years old, 47 grandchildren and don't want to argue with them if anything happens to my mother, the house is mine, it has been. It was built that way and so, I want the house separate from the property.

MR. FENWICK: Okay.

MR. MASON: From the main parcel.

MR. FENWICK: Fine, we need that type of information. Any other questions from the Members of the Board? Dan, could you explain to Mr. Mason what to bring.

MR. LUCIA: When you come back if the Board sets you up for a public hearing in order to be granted the area variance you're looking for, you have to prove something called practical difficulty and you do that by showing the significant economic injury from the application of the ordinance to your property, why you can't comply with the minimum setback, minimum yard area requirements on the piece across the street, why it is you can't comply with the minimum yard area and in this case, it's because you are giving part of the property to the town at no cost. You basically knew that but you can do that by showing the cost of the parcel compared with its value. In other words, what it would cost you to move all this stuff to comply with the ordinance since it's all pre-existing.

MR. MASON: That way it couldn't be moved to put it someplace else. The trailer couldn't be moved because that comes under the Housing Authority through New York that I have to register so I can't move it.

MR. LUCIA: That is all acceptable proof to the Board, show why it is you can't juggle the property line to come up with a smaller variance or no variance. We

need you to show the Board why economically you can't do it any other way. What you're offering to the Board is the best you can do, given everything on the property. When you come back also if you would be a copy of your deed or deeds, I guess, because you have two for the piece in the front and the piece in the back up at the aqueduct, some photographs of the property just so the Board can see where it is the lines are going between the buildings and whatever view helps to show it and I don't know if you or your mother may have a title search or title policy or something or maybe you can check with whatever attorneys she had when the property was first acquired. I know that goes back a few years but --

MR. MASON: I don't know if one was ever done.

MR. LUCIA: Check and see what you have and if you have it, I'd like you to bring it along.

MR. MASON: If we don't have one, do I need one, a title search?

MR. LUCIA: If you don't have one, give me a call in advance and we'll see what we can work out before the public hearing.

MR. BABCOCK: If you could stand right here, Herb, and take a picture this way so they can see the relationship to the trailer and the mobile home and the house.

MR. LUCIA: And the same angle looking towards the road standing in the corner looking both ways on the whole lot.

MRS. BARNHART: Not being familiar with the area, is he within 500 feet or any State or county road?

MR. MASON: I think it's just under a thousand.

MR. BABCOCK: This map shows 500 feet and it's not to Elizabeth Lane it's 600 feet, it's 600 feet to the entrance on Elizabeth Lane and he's right across from Elizabeth Lane so it's definitely 600 feet.

MR. FENWICK: Do we have a motion to set him up for a public hearing?

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MR. NUGENT: I'll make that motion.

MR. KONKOL: I'll second it.

ROLL CALL:

Mr. Finnegan	Aye
Mr. Konkol	Aye
Mr. Tanner	Aye
Mr. Nugent	Aye
Mr. Fenwick	Aye

MR. LUCIA: Just to be safe, maybe we ought to do the county referral anyway. I'm curious as to whether or not the aqueduct property which is within 500 feet qualifies for referral and one of the grounds for --

MR. BABCOCK: It really has no effect on aqueducts.

MRS. BARNHART: That's the city, they'd probably come up on the assessor's's list.

MR. BABCOCK: He's definitely within 500 feet of the aqueduct so we are not sure if that triggers it or not, probably it's best let me ask a question. Is there going to be a meeting on the 23rd? Do we know that yet?

MR. FENWICK: No.

MR. BABCOCK: There's not going to be a meeting?

MR. FENWICK: We don't know that. We are going to address it this evening.

MR. BABCOCK: If there's not going to be a meeting on the 23rd, let's send it to Orange County Planning just to make sure.

MR. FENWICK: Let's do it anyway.

MR. LUCIA: It's safer to do it. 239M of the General Municipal Law includes on the matters that must be referred anything within 500 feet from the existing or proposed boundary of any county or State owned land on which a public building or institution is located. I

don't know if the aqueduct is an institution.

MR. BABCOCK: You'll take care of that?

MRS. BARNHART: I can't take care of anything until I have the paper work in my hands but it's applicable sometimes it's just hard to determine.

MR. BABCOCK: Let's send it to the Orange County Planning.

MRS. BARNHART: As soon as I get it, I'll send it.

MR. BABCOCK: You need another map to do that with?

MRS. BARNHART: I have two to do that with.

MR. FINNEGAN: Nothing to the City?

MR. LUCIA: If they turn up on the assessor's list, they get a notice but if the property is not on the rolls, I am not sure how the assessor carries the aqueduct property; two different notices.

MR. BABCOCK: But this project there's not one thing changing, no buildings are added, no buildings are taken away, just a matter of moving the lot line. I don't see where anybody would have any objection to it. I can't see it anyway.

MR. FINNEGAN: Never can tell, sometimes they just show up because they don't understand.

MR. BABCOCK: It's fine to show up as far as Orange County Planning.

MR. LUCIA: Also, as you may have heard with the previous application when you come back, you'll need two checks, one for \$50 to the Town of New Windsor and another for \$250 for the Town of New Windsor. That's going to be on a time basis, you may get a refund, there may be an additional fee.

MR. MASON: That's fine, no problem. Thank you.

MR. LUCIA: This probably is a multi-family or commercial rather than a single-family, different fee schedule on that. That should be \$150 rather than \$50

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application fee.

MR. BABCOCK: I think the Board should address that. He's putting a lot line around the single-family dwelling but it definitely involves commercial.

MR. KONKOL: I think it has to go as a multi-family. Somebody is going to squawk if they pick up on that.

MR. LUCIA: Fee would be \$150 plus \$250.

MR. FENWICK: It's multi-family anyway.

MR. BABCOCK: He'd only be able to build a single family because of the lot size. Just to clarify that a little bit, it's R-3 is two-family, multiple-family doesn't come into play unless you have three or more.

Rec'd. ZBA
1/7/92 PAB

File: Mason

Date: Jan. 2 1992

Pat Barnhart
New Windsor Town Hall
555 Union Avenue
New Windsor, NY 12553

Subject: Appeal No. 35

As a home owner on Mount Airy Road / Elizabeth Lane I request that you deny the variance that would allow for the subdivision of land parcels that would result in underside lots and the insufficient setback for a house trailer.

We are a neighborhood of homes on one acre lots and feel that this variance would deflate the values of our homes.

This letter is sent in place of my appearance that is scheduled for January 13th, 1992.

Sincerely,

Ida G. Pacione

(signature)

Print

Name

Ida G. Pacione

Street Address

129 Mt Airy Rd

City, State, and Zip

New Windsor, NY 12553

Daytime Phone #

894-4336

Nighttime Phone #

~~894~~ 564-0231

Rec'd.
ZBA - 1/7/92.

File: Mason.

Date: Jan. 2 1992

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New Windsor Town Hall
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This letter is sent in place of my appearance that is scheduled for January 13th, 1992.

Sincerely,

Coleen Morris
(signature)

Print Name Coleen Morris
Street Address 11 ELIZABETH LANE
City, State, and Zip NEW WINDSOR NY 12553
Daytime Phone # 564-2481
Nighttime Phone # 11



City of New York
Department of
Environmental Protection
Bureau of Water Supply
Office of Water Supply Lands (OWSL)
P.O. Box 66, Valhalla, New York 10595 (914) 742-2070

*Rec'd. ZBA
1/3/92 - (PAB)*

ALBERT F. APPLETON
Commissioner

JOSEPH P. CONWAY, P.E., Director
Deputy Commissioner

December 31, 1991

Richard Fenwick, Chairman
Zoning Board of Appeals
Town of New Windsor
555 Union Avenue
New Windsor, New York 12550

Re: Zoning Board of Appeals
Hearing January 13 1992
32:2:9 & 10.41

Dear Mr. Fenwick:

This pertains to a request by Herbert and Barbara Mason for a variance of the regulations of the Zoning Local Law with respect to setbacks.

Please be advised that this Department opposes the granting of variances that reduce setback distances. We are especially concerned with the proximity to the City's Catskill Aqueduct.

Before the Board's final decision, we would appreciate it if the Town required the applicant to erect a substantial seven (7) feet high chain link fence along the City's property line separating subject parcel (s) from City property thereby preventing trespass/dumping on the Catskill Aqueduct.

Very truly yours,

Marilyn Shanahan
Marilyn Shanahan
Acting Manager

MS:ur

PUBLIC NOTICE OF HEARING BEFORE

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following proposition:

Appeal No. 35

Request of HERBERT MASON and BARBARA MASON for a VARIANCE of the regulations of the Zoning Local Law to permit subdivision of parcels, thereby creating a lot with insufficient rear yard on Lot #1, insufficient setback for house trailer on Lot #2, insufficient setback for 2 sheds on Lot #2 and insufficient lot area on Lot #3, all in an R-3 zone;

being VARIANCES of Sections 48-12-Table of Use/Bulk Regulations, Columns C & G, Section 48-14A(B) and Section 27A-19 of Mobile Home Law, for property situated as follows:

West side of Mt. Airy Road, New Windsor, N. Y.
known and designated as New Windsor Tax Map:
Section 32 - Block 2 - Lots 9 and 10.41

SAID HEARING will take place on the 13th day of January, 1992 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, N. Y. beginning at 7:30 o'clock p.m.

RICHARD FENWICK, Chairman

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OWSL

1/13/92 Public Hearing: Herbert Mason # 91-35

Name:	Address:	
Harry Buller	8 Elizabeth	(Possibly)
Albie Zeyillo	7 Elizabeth Lane	
Mary J. Lurofalo	12 Elizabeth Lane	

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 91-26

DATE: 2 DEC. 1991

REVISED 12-10-91

APPLICANT: Herbert Mason

110 Mt. Airy Rd.

New Windsor, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 7 Nov. 1991

FOR (SUBDIVISION - ~~SITE PLAN~~)

LOCATED AT West side of Mt. Airy Rd.

ZONE R-3

DESCRIPTION OF EXISTING SITE: SEC: 32 BLOCK: 2 LOT: 9+10.41

IS DISAPPROVED ON THE FOLLOWING GROUNDS: LOT 1

REAR YARD

Carl Schaefer
PLANNING BOARD CHAIRMAN

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>R3</u> USE <u>A 10</u>		
MIN. LOT AREA		
MIN. LOT WIDTH		
REQ'D FRONT YD		
REQ'D SIDE YD.		
REQ'D TOTAL SIDE YD.		
REQ'D REAR YD. <u>40 FT</u>	<u>16.7 Ft.</u>	<u>23.3 Ft.</u>
REQ'D FRONTAGE		
MAX. BLDG. HT.		
FLOOR AREA RATIO		

110 Mt. Airy Rd.
New Windsor, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 7 Nov. 1991
FOR (SUBDIVISION - ~~SITE PLAN~~) _____
LOCATED AT West side of Mt. Airy Rd.

ZONE R-3

DESCRIPTION OF EXISTING SITE: SEC: 32 BLOCK: 2 LOT: 9+10.41

IS DISAPPROVED ON THE FOLLOWING GROUNDS: LOT 1
REAR YARD

Carl Schaefer *cm*
PLANNING BOARD CHAIRMAN

REQUIREMENTS		PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>R3</u>	USE <u>A 10</u>		
MIN. LOT AREA			
MIN. LOT WIDTH			
REQ'D FRONT YD			
REQ'D SIDE YD.			
REQ'D TOTAL SIDE YD.			
REQ'D REAR YD.	<u>40 FT</u>	<u>16.7 Ft.</u>	<u>23.3 Ft.</u>
REQ'D FRONTAGE			
MAX. BLDG. HT.			
FLOOR AREA RATIO			
MIN. LIVABLE AREA			
DEV. COVERAGE	_____ %	_____ %	_____ %
O/S PARKING SPACES			

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-565-8550) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 91-26

DATE: 2 DEC 1991

APPLICANT: HERBERT MASON

110 MT. AIRY ROAD

NEW WINDSOR, NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 7 NOVEMBER 1991

FOR (SUBDIVISION - ~~SITE PLAN~~) _____

LOCATED AT WEST SIDE OF MT. AIRY ROAD

ZONE R-3

DESCRIPTION OF EXISTING SITE: SEC: 32 BLOCK: 2 LOT: 9 & 10.41

IS DISAPPROVED ON THE FOLLOWING GROUNDS: LOT #2

MOBILE HOME SET BACK PER SEC. 27A-19 ACCESSORY BLDG. SET

BACK PER SEC. 48-14 A(B)

SHED #1 SHED #2

Carl Schiefer
PLANNING BOARD CHAIRMAN

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>R-3</u> USE <u>A-10</u>		
SET BACK FOR <u>30 FT.</u> MOBILE HOME (PER SECTION 27A-19)	<u>9.6 FT</u>	<u>20.4 FT</u>
ACCESSORY BLDG. <u>SHED #1) 10 FT.</u>	<u>3 FT.</u>	<u>7 FT.</u>
SET BACK (PER <u>SHED #2) 10 FT.</u> SECTION 48-14 A-(B))	<u>5 FT.</u>	<u>5 FT.</u>
REQ'D SIDE YD. _____	_____	_____
REQ'D TOTAL SIDE YD. _____	_____	_____
REQ'D REAR YD. _____	_____	_____
REQ'D FRONTAGE _____	_____	_____

APPLICANT: HERBERT MASON

110 MT. AIRY ROAD

NEW WINDSOR, NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 7 NOVEMBER 1991

FOR (SUBDIVISION - ~~SETH PLAN~~)

LOCATED AT WEST SIDE OF MT. AIRY ROAD

ZONE R-3

DESCRIPTION OF EXISTING SITE: SEC: 32 BLOCK: 2 LOT: 9 & 10.41

IS DISAPPROVED ON THE FOLLOWING GROUNDS: LOT #2

MOBILE HOME SET BACK PER SEC. 27A-19 ACCESSORY BLDG. SET

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REQ'D SIDE YD. _____	_____	_____
REQ'D TOTAL SIDE YD. _____	_____	_____
REQ'D REAR YD. _____	_____	_____
REQ'D FRONTAGE _____	_____	_____
MAX. BLDG. HT. _____	_____	_____
FLOOR AREA RATIO _____	_____	_____
MIN. LIVABLE AREA _____	_____	_____
DEV. COVERAGE _____ %	_____ %	_____ %
O/S PARKING SPACES _____	_____	_____

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-565-8550) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 91-26

DATE: 2 Dec. 1991

APPLICANT: Herbert Mason

Revised 12-10-91

110 Mt. Airy Rd.

New Windsor, NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 7 Nov. 1991

FOR (SUBDIVISION - ~~SEX PLAN~~)

LOCATED AT West side of Mt. Airy Rd.

ZONE R-3

DESCRIPTION OF EXISTING SITE: SEC: 32 BLOCK: 2 LOT: 9+10.41

IS DISAPPROVED ON THE FOLLOWING GROUNDS: LOT 3

LOT AREA

Carl Schieffer, CM
PLANNING BOARD CHAIRMAN

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>R 3</u> USE <u>A 10</u>		
MIN. LOT AREA	<u>21780 SQ FT</u>	<u>21685 SQ FT</u> <u>95 SQ FT</u>
MIN. LOT WIDTH		
REQ'D FRONT YD		
REQ'D SIDE YD.		
REQ'D TOTAL SIDE YD.		
REQ'D REAR YD.		
REQ'D FRONTAGE		
MAX. BLDG. HT.		

110 Mt. Airy Rd.
New Windsor, NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 7 Nov. 1991

FOR (SUBDIVISION - ~~STATE PLAN~~) _____

LOCATED AT West side of Mt. Airy Rd.

ZONE R-3

DESCRIPTION OF EXISTING SITE: SEC: 32 BLOCK: 2 LOT: 9+10.41

IS DISAPPROVED ON THE FOLLOWING GROUNDS: _____

LOT 3

LOT AREA

Carl Schiebler PM
PLANNING BOARD CHAIRMAN

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>R 3</u> USE <u>A 10</u>		
MIN. LOT AREA	<u>21780 SQ FT</u>	<u>21685 SQ FT</u> <u>95 SQ FT</u>
MIN. LOT WIDTH	_____	_____
REQ'D FRONT YD	_____	_____
REQ'D SIDE YD.	_____	_____
REQ'D TOTAL SIDE YD.	_____	_____
REQ'D REAR YD.	_____	_____
REQ'D FRONTAGE	_____	_____
MAX. BLDG. HT.	_____	_____
FLOOR AREA RATIO	_____	_____
MIN. LIVABLE AREA	_____	_____
DEV. COVERAGE	_____ %	_____ %
O/S PARKING SPACES	_____	_____

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-565-8550) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

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MASON, HERBERT SUBDIVISION (91-26) MT. AIRY ROAD

Mr. Herbert Mason came before the Board representing this proposal.

MR. MASON: I live on 110 Mt. Airy Road. I wanted to separate my house from the piece of property that we have which would be a subdivision.

MR. SCHIEFER: So, what you're asking for is a two lot subdivision?

MR. MASON: Actually, it would be three, I have a piece across the road that the road divides and we had bought a piece from Cornovitz (phonetic), our neighbor, that sets behind our property and this backed up against the aqueduct and that piece we wanted to be a piece of lot to, in other words, just take that line out, it's a landlocked piece.

MR. EDSALL: Mr. Chairman, this is quite a confusing application in certain ways, maybe we can get some clarifications and answers out of the way.

MR. SCHIEFER: If you would because I'm trying to follow this on the map.

MR. EDSALL: Maybe if we can get the attention of all the members, we can try to make some decisions. First off, I think you have to make a decision and the attorney will have to guide on whether or not what is called out on lot 3 on the east side of Mt. Airy Road which is evidently a separate deed parcel, is in fact a separate lot now or it isn't.

MR. VAN LEEUWEN: If it's across the road and a town road passes through, the land, it's automatically a separate lot, even though it might be part of the deed, of the original lot.

MR. EDSALL: It's a separate deed parcel, it may be reflected in the same deed, it's part of the same tax map number, it's a separate parcel and evidently the same deed from what we understand. I'm looking if maybe the attorney can put it on record so we can get that out of the way, does that constitute a separate lot already?

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MR. PETRO: Could it be sold, I think that would be a clue, could you sell that piece across the street even though it still has the same tax lot number?

MR. KRIEGER: Whether or not it has the same tax number is not controlling in the question whether or not it's a separately deedable parcel, the question is whether it's subdivided. If it's listed on the deed as a separate parcel and identified that way and has it's own metes and bounds description, it's assuming that it has it's own chain of title that's how it got there, it's a separate parcel. It's identified as such.

MR. VAN LEEUWEN: I have a piece of parcel, Town of New Windsor that is not a situation like this and I have a tax map for both parcels even though they are separately deeded.

MR. KRIEGER: You have one tax map parcel encompasses both parcels?

MR. VAN LEEUWEN: They are both separate deeds treated as one by the tax people.

MR. KRIEGER: Whether or not the tax people treat them as one is not controlling. The question of whether or not you can sell one. They don't have the ability to pass or the legal right to pass on subdivision to pass on whether they separately exist, they incorporate it into a tax parcel for their own purposes in doing the tax and their purposes are not the same purposes as are here. So, based on the information that I hear at this point, looks to me that this is a separate parcel.

MR. EDSALL: Let's move through in an organized fashion. I have a copy of the deed I'll verify possibly a little bit later whether or not this is a separate parcel or not in the deeds. If that is the case, you're telling us we need not consider that lot under this application, it's already a lot. We don't have to look at it.

MR. KRIEGER: Doesn't have to be broken off. If it's a separately identified parcel, if it's contained in the same metes and bounds --

MR. EDSALL: As long as it's a separate parcel, all

right, we got that out of the way. Second point is what we understand is being proposed is, I guess, it would be the southwesterly end of the property we are having a lot line eliminated so we are combining a landlocked parcel along the city aqueduct property with this property. That is another part of this application. To the left of the plan, there is an old deed drawing.

MR. VAN LEEUWEN: Acquired this piece in the back of, he wants to move that line.

MR. EDSALL: That is the second thing we are doing.

MR. VAN LEEUWEN: This can be treated as a lot line change.

MR. EDSALL: We are actually combining lots, lot line by elimination of a line so that is the second thing we are doing, took us a while to figure it out. The next thing --

MR. VAN LEEUWEN: You're creating a lot in the tax map, creating a lot where his house is on here and you're moving the lot line to the rear of the property.

MR. EDSALL: Now that we have gotten those two out of the way, the next thing that's being proposed is actually two lot minor subdivision to create the residential parcel on the north corner and leave the balance as it is. One of the problems we ran into on the northern corner you have got the multitude of easements for the utility lines so that is what all the runways are. We have asked that they, the question we ran into is that he has central sewer and he has as is noted in note 8 on the plan, he has a community water system, a licensed community water system serving the trailer park, serving the property that is a subject of a State license and that is under the review of the Orange County Health Department who have issued a permit and it's regularly inspected. Does that and I believe you very well could say that constitutes a community water system or central water. If that is the case, even with all these easements subtracted, he meets the minimum bulk requirements of 21,780 for lot area on lot 1. If you determine it is not central water, then he needs a variance so that is the next step.

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MR. SCHIEFER: How much would he need, he's got 37,000 plus?

MR. EDSALL: Well, the net area as is noted in note 7 is only 25,779, which means he doesn't have the required but if you determine that it's central water, he's okay.

MR. VAN LEEUWEN: Does have central water.

MR. EDSALL: I'm just looking to put it on the record so we have some basis for all these decisions.

MR. BABCOCK: In Beaver Dam Lake there's a community water system and that is considered central water and you get the benefit. The lot size is determined by the availability of the water and sewer.

MR. SCHIEFER: In my estimation, it's central water.

MR. KRIEGER: I don't see why not.

MR. SCHIEFER: Approved by the county, he's got a permit for it so I assume --

MR. VAN LEEUWEN: I don't think he has to go to the Zoning Board of Appeals.

MR. EDSALL: The last two things we are going to do while the Board is asking any questions, Mike and I are going to check to see that the rest of the bulk requirements are okay and I'll check the deeds quick to see what the story is with the other side.

MR. SCHIEFER: While our Engineer and Building Inspector are working on it, do you have any other questions of the applicant?

MR. KRIEGER: If he's going to make a two lot subdivision and they want to establish lot 3 as a separate lot since it would still be under the four, why could he simply approve that in the same application?

MR. SCHIEFER: I thought lot 3 we established is a separate lot.

MR. BABCOCK: What I wanted to say before is that what I had told the applicant is that if this plan right here in front of us is approved, he'll be required to file three new deeds, that would be for Andy's review, one for the deed across the street and get his own tax map number, one for where his house is and one for the rest, that would clear it all up.

MR. KRIEGER: That was the origin of my comment is just to break it out from the separate deed, if you have separate parcels.

MR. BABCOCK: The applicant's agreed that to have his attorney draw them up and be reviewed by you.

MR. EDSALL: One of the problems if it doesn't constitute a legal lot now you can't create it without a variance because that one doesn't meet either bulk requirements with central water or without central water so that is where the problem comes in and he needs a variance for lot 3. If it's a pre-existing lot, we're not doing anything with it.

MR. KRIEGER: When I say it's pre-existing, that doesn't indicate it has grandfather status one way or another. I have no information whether it has grandfather status. All I mean to indicate is a separate parcel.

MR. BABCOCK: Right now, if he ever wants to build a house there --

MR. SCHIEFER: Then you go to the Zoning Board of Appeals.

MR. BABCOCK: Let's say he wants to build a house 600 feet now he definitely needs --

MR. KRIEGER: If he's refused a building permit on a question the Zoning Board of Appeals has variance power and also interpretation power and so if he wants to establish a dispute it for instance for argument sake, disputed grandfather status, that would be the place for it to be heard.

MR. SCHIEFER: Do we now know this is a separate lot?

MR. VAN LEEUWEN: Yes, it is, once the town road

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crosses the property.

MR. SCHIEFER: I just heard the attorney question some things. I thought it was.

MR. KRIEGER: It's a separate lot, whether or not this separate lot as it exists meets the zoning requirements. I offer no opinion nor does the Planning Board have to make an opinion on that. This is without any guarantee that they do anything with it separate.

MR. PETRO: To follow up, he should file the separate deed so he gets his own tax number.

MR. SCHIEFER: He has central water, they are separate lots.

MR. EDSALL: Anything else you want to go onto?

MR. LANDER: We are going to need a variance here for side yard, isn't this house a little close?

MR. VAN LEEUWEN: How long has the house been there?

MR. MASON: 1951.

MR. DUBALDI: Putting in a lot line, you're going to need a variance.

MR. EDSALL: We have to check to see what the trailer law calls for, it's not a big, it's part of the trailer law. We'll check that now.

MR. BABCOCK: Maybe we should decide what is the side and rear yard on this lot.

MR. VAN LEEUWEN: Don't mess it up any further than he's already got it messed up. He's got an airport there, he's got all these things there.

MR. LANDER: He needs 40 feet.

MR. SCHIEFER: Does he need a variance here, Andy, what he's putting a lot line through here and creating the side yard distances.

MR. KRIEGER: First of all, is that required, would that be required anyway, is it a side yard or is it a

rear yard and is 9, 6, they're potentially in violation of the code before you reach the question of whether or not he's grandfathered.

MR. LANDER: I think from Valdina (phonetic) here give us the rear yard because he said the rear yard proposed is 16'7" and that's what it is on the corner of the one family dwelling so that's the rear yard so Mr. Valdina says.

MR. KRIEGER: Well, okay, so the line, the lot line that runs approximately northwest to southeast is the rear yard, let's assume for arguments sake that the rear yard of the parcel for the one family dwelling but what is it as to the house trailer parcel, it doesn't automatically, the rear yard of the house trailer parcel because if you have a piece of bread with two sides, you know, merely because there's butter on one side doesn't mean there's butter on the other.

MR. VAN LEEUWEN: You can do it.

MR. KRIEGER: I didn't say you couldn't do it.

MR. BABCOCK: Typically when, if somebody comes in and changed the use of their building, you have a house and they want to make it into a retail or they want to make it into an office that triggers the codes as far as bringing it up to code and as far as the setbacks on different projects. I don't know that this wouldn't trigger the codes but in my opinion, it doesn't trigger the code because it's a pre-existing condition.

MR. SCHIEFER: I'm going to have to ask for legal determination.

MR. KRIEGER: According to the code, if this were for argument sake let us say this was a side yard as to the dominant parcel lot #2, let's suppose that this is a side yard as to lot #2, it's a rear yard to lot number, whatever the heck, this is lot #1, let's suppose for arguments sake it's a side yard as to lot #2, is that within the, is the 9'6" distance what is allowed for a side yard?

MR. EDSALL: I'm trying to read the deeds, I missed the whole thing.

MR. BABCOCK: In an R-3 zone, required side yard is 15 feet.

MR. KRIEGER: Let's suppose for instance I'm not willing to say what is the minimum required if it were a front yard.

MR. BABCOCK: Thirty-five feet.

MR. KRIEGER: Rear yard?

MR. BABCOCK: Forty feet.

MR. KRIEGER: No matter what you call it, it doesn't quality.

MR. PETRO: And it would screw up the two family residence on the east side because you only have 15 feet to that lot line so you have to leave that as a side yard.

MR. SCHIEFER: The question here is this. A pre-existing condition and I don't see where it is pre-existing, if we put that lot line but I'll leave that up to you, Andy.

MR. KRIEGER: I'm not sure and I didn't mean to sound like I'm ducking the question but it seems like an interpretation and interpretation of the zoning law is not within the province of this Board.

MR. SCHIEFER: They may need a variance, if you're not willing to make the determination I need an interpretation.

MR. PETRO: Can you move that trailer at all like ten more feet away?

MR. BABCOCK: Well, you have to remember there's two different requirements here, you know, a mobile home park is what that is is a different requirement than what a one family dwelling would be.

MR. PETRO: Is it a mobile home park then?

MR. BABCOCK: Yes, it is.

MR. PETRO: What is the requirement then?

MR. SCHIEFER: The side yard distance in a mobile home park.

MR. PETRO: Or the smallest distance away?

MR. BABCOCK: A pre-existing mobile home or new one, that's the difference?

MR. SCHIEFER: Andy is this a pre-existing condition before?

MR. VAN LEEUWEN: Mr. Chairman, it's not when you're creating a lot line, it's not a pre-existing.

MR. PETRO: It's a pre-existing mobile home park so we can go.

MR. KRIEGER: You have one show but not both.

MR. PETRO: Go with the lowest requirements.

MR. VAN LEEUWEN: I have an idea on the SEQRA, I'd like our attorney and engineer to come up with some answers for us.

MR. EDSALL: I think you have a legal question here, I'll tell you one thing, the plans and the deeds were not prepared by the same surveyor because there's very little similarities but I do get the impression that they were two different deed parcels from the lot what is called out as lot 2 and what is called out here as lot 3. I'm just trying to make some semblance.

MR. SCHIEFER: Let's see what Mike comes up with, how far a trailer has to be set up.

MR. PETRO: In a pre-existing park?

MR. BABCOCK: We don't have pre-existing right now, if you want to build a mobile home park, it's got to be 30 feet from any park boundary.

MR. SCHIEFER: Doesn't meet that either. What I'm saying this has to go to the Zoning Board of Appeals.

MR. VAN LEEUWEN: At this rate we're going, yes.

MR. KRIEGER: Seems you have even another question and that's 15 feet is the minimum on side yard setback, he's got the two trailers at the top of the map of what is, I think, pretty obviously a side yard.

MR. SCHIEFER: That's pre-existing. The way I see it and do you have any, this is not pre-existing this, we agree now it does not meet the requirements, it goes to the Zoning Board of Appeals.

MR. VAN LEEUWEN: Has to.

MR. KRIEGER: They have to have Mike for what now for the trailer or for the home?

MR. SCHIEFER: For the trailer.

MR. PETRO: Well, the home wouldn't have it either.

MR. VAN LEEUWEN: Home only has 15 feet.

MR. BABCOCK: Home has 16'7".

MR. EDSALL: It would need a rear yard setback for that.

MR. PETRO: And then you need probably a side yard or whatever that is.

MR. VAN LEEUWEN: Side is 21 feet.

MR. DUBALDI: Are we taking the sheds into consideration?

MR. PETRO: What is the side yard for a home?

MR. BABCOCK: Fifteen feet.

MR. PETRO: He's already there.

MR. SCHIEFER: I think we need interpretation and variance from the Zoning Board of Appeals.

MR. BABCOCK: The same procedure for a variance and interpretation. It's the same procedure. If instead of sending him to the Zoning Board of Appeals for an interpretation, if that's the suggestion of the Board and him finding out he does need a variance might as

well send him for a variance.

MR. KRIEGER: Interpretation and variances if needed.

MR. DUBALDI: What about the sheds that are behind the house trailer, are we going to consider those structures?

MR. LANDER: Do they have a fixed floor?

MR. MASON: They belong to the people who own the trailers. I believe they are the sheds that you buy and put up.

MR. DUBALDI: Two sheds behind the house trailer because that changes it from a 9.6 variance to 2 feet.

MR. MASON: One shed that's right behind, okay, one of them is an outside oil tank that's covered, had to be put in a container for the EPA.

MR. BABCOCK: DEC.

MR. MASON: You had to have containers on all the oil tanks if it's outside, you know, you got a water problem so we put a shed over the tanks.

MR. SCHIEFER: It's got to go to the Zoning Board of Appeals.

MR. KRIEGER: Didn't we run into that concern before within the last year or so where something was sent to the Zoning Board of Appeals and they sent it back and we came up with a, if recollection serves me right, we came up with a kind of broader forwarding language that would encompass that difficulty the Board, this Board sent it over for an interpretation and they sent it back.

MR. SCHIEFER: Send it over for interpretation and variances.

MR. BABCOCK: The one problem with that is is that the Zoning Board will not accept an application without numbers on it. We have to fill in the dots and put the numbers on it.

MR. SCHIEFER: I'd ask for a variance on the side yard

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distance on the house trailer on the dwellings.

MR. PETRO: One family dwelling.

MR. BABCOCK: What we can do is find out how far the shed is off the property line.

MR. SCHIEFER: They are going to be closer yet.

MR. DUBALDI: The shed was built around the oil tanks.

MR. MASON: We set concrete slab, put a container and the tank in the container tank and put a shed over that container tank.

MR. SCHIEFER: We need side yard variances on the trailer, on the single family dwelling and the sheds.

MR. PETRO: Rear yard on the single family?

MR. LANDER: I make a motion to approve Herbert Mason Subdivision.

MR. DUBALDI: I'll second it.

ROLL CALL:

Mr. Petro	No
Mr. VanLeeuwen	No
Mr. Dubaldi	No
Mr. Lander	No
Mr. Schiefer	No

MR. EDSALL: Just for the record in case it's determined that what is shown as lot 3 in fact isn't a separate deed parcel the applicant submits this plan they'd also be seeking area variances relative to that proposed lot for the creation of that as a separate and individual.

MR. SCHIEFER: If it's determined but I thought --

MR. KRIEGER: Based on the information that I have heard, yes. Mr. Edsall, now has raised a question that frankly I didn't think about and that's suppose what is identified as a separate lot and the deed doesn't, you can't clearly figure out which lot it is.

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MR. EDSALL: I'm telling you the 1937 deed doesn't bear any resemblance to what in on this plan.

MR. KRIEGER: As long as he's going to apply to the Zoning Board for a variance, he might as well apply for a variance on lot 3.

MR. PETRO: Just assure that you can do something with that at a later date.

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Herbert & Barbara Mason

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#91-35

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On December 18, 1991, I compared the 32 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
18th day of December, 1991.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1993

(TA DOCDISK#7-030586.AOS)

ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW
OF LOCAL PLANNING ACTION

(Variances, Zone Changes, Special Permits, Subdivisions, Site Plans)

Local File No. 91-35

1. Municipality Town of New Windsor Public Hearing Date 1/13/92
☐ City, Town or Village Board ☐ Planning Board ☒ Zoning Board

2. Owner: Name Herbert & Barbara Mason
Address 110 Mt. Airy Rd., New Windsor, NY

3. Applicant*: Name (same)
Address _____

* If Applicant is owner, leave blank

4. Location of Site: See tax map attached
(street or highway, plus nearest intersection)

Tax Map Identification: Section 32 Block 2 Lot 9 & 10, 41

Present Zoning District R-3 Size of Parcel 7.67 ± Acres

5. Type of Review:

Special Permit: _____

Variance Use _____

Area See Applications attached hereto.

Zone Change: From _____ To _____

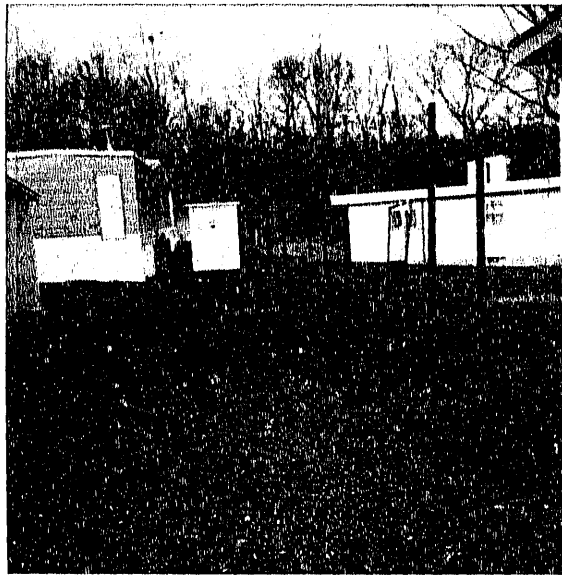
Zoning Amendment: To Section _____

Subdivision: Number of Lots/Units _____

Site Plan: Use _____

12/17/91
Date

Dorinda G. Bankhart, Secy.
Signature and Title





1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

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December 16, 1991

Herbert & Barbara Mason
110 Mt. Airy Rd.
New Windsor, NY 12553

Re: Variance List/500 Ft.
Tax Map Parcel 32-2-9 & 10.41

Dear Mr. Mason:

According to our records, the attached list of property owners are within five hundred (500) feet of the above mentioned property.

The charge for this service is \$55.00, minus your deposit of \$25.00.

Please remit the balance of \$30.00 to the Town Clerk's Office.

Sincerely,

Leslie Cook

LESLIE COOK
Sole Assessor

LC/cad

~~For Pat Bennett~~

Central Hudson Gas & Electric Corp.
c/o Tax Agent
South Rd.
Poughkeepsie, NY 12602

Stellway, Henry
308 Route 207
Newburgh, NY 12550

Karnavezos, Thomas N. & Andrea
132 Mt. Airy Rd.
New Windsor, NY 12553

Karnavezos, Nicholas P.
124 Mt. Airy Rd.
New Windsor, NY 12553

Karnavezos, Peter & Sophia
124 Mt. Airy Rd.
New Windsor, NY 12553

Fayo, Anna E.
134 Mt. Airy Rd.
New Windsor, NY 12553

Silver Stream, Inc.
614 Little Britain Rd.
New Windsor, NY 12553

Manager, City of New York, DEP
Bureau of Water Supply
Office of Water Supply Lands (OWSL)
P.O. Box 66
Valhalla, NY 10595

Fusco, Salvatore R. & Mary C.
140 Mt. Airy Rd.
New Windsor, NY 12553

DeRosa, Michael & Lillian
RD2 Mt. Airy Rd., Box 239
New Windsor, NY 12553

Sisters of The Presenation of Blessed Virgin Inc.
Mt. St. Joseph Rte. 207
New Windsor, NY 12553

Dibrizzi, Cosimo
647 Little Britain Rd.
New Windsor, NY 12553

Panella, Rocco & Elizabeth
105 Mt. Airy Rd.
New Windsor, NY 12553

Prendergast, Thomas F. & Debra W.
645 Little Britain Rd.
New Windsor, NY 12553

Ayers, Donald C. & Gilda X
107 Mt. Airy Rd.
New Windsor, NY 12553

Marshall, Daniel A. & Kim B.
109 Mt. Airy Rd.
New Windsor, NY 12553 X

Bennett, Gerard A. & Marie T.
2 Elizabeth Lane
New Windsor, NY 12553 X

Ogden, Davey X
4 Elizabeth Lane
New Windsor, NY 12553

McDermott, John & Karen X
6 Elizabeth Lane
New Windsor, NY 12553

Bullock, Larry & Mary A. X
8 Elizabeth Lane
New Windsor, NY 12553

De Rico, Fred & Mary X
10 Elizabeth Lane
New Windsor, NY 12553

Garofolo, James J. & Mary X
12 Elizabeth Lane
New Windsor, NY 12553

Domalavage, Albert & Patricia
14 Elizabeth Lane
New Windsor, NY 12553 X

Yankow, Rickie & Eileen B. X
16 Elizabeth Lane
New Windsor, NY 12553

Zerillo, William & Abbie
7 Elizabeth Lane
New Windsor, NY 12553 X

Owens, Carol X
18 Elizabeth Lane
New Windsor, NY 12553

Pacione, Frank D. & Ida G. X
MD36 129 Mt. Airy Rd.
New Windsor, NY 12553

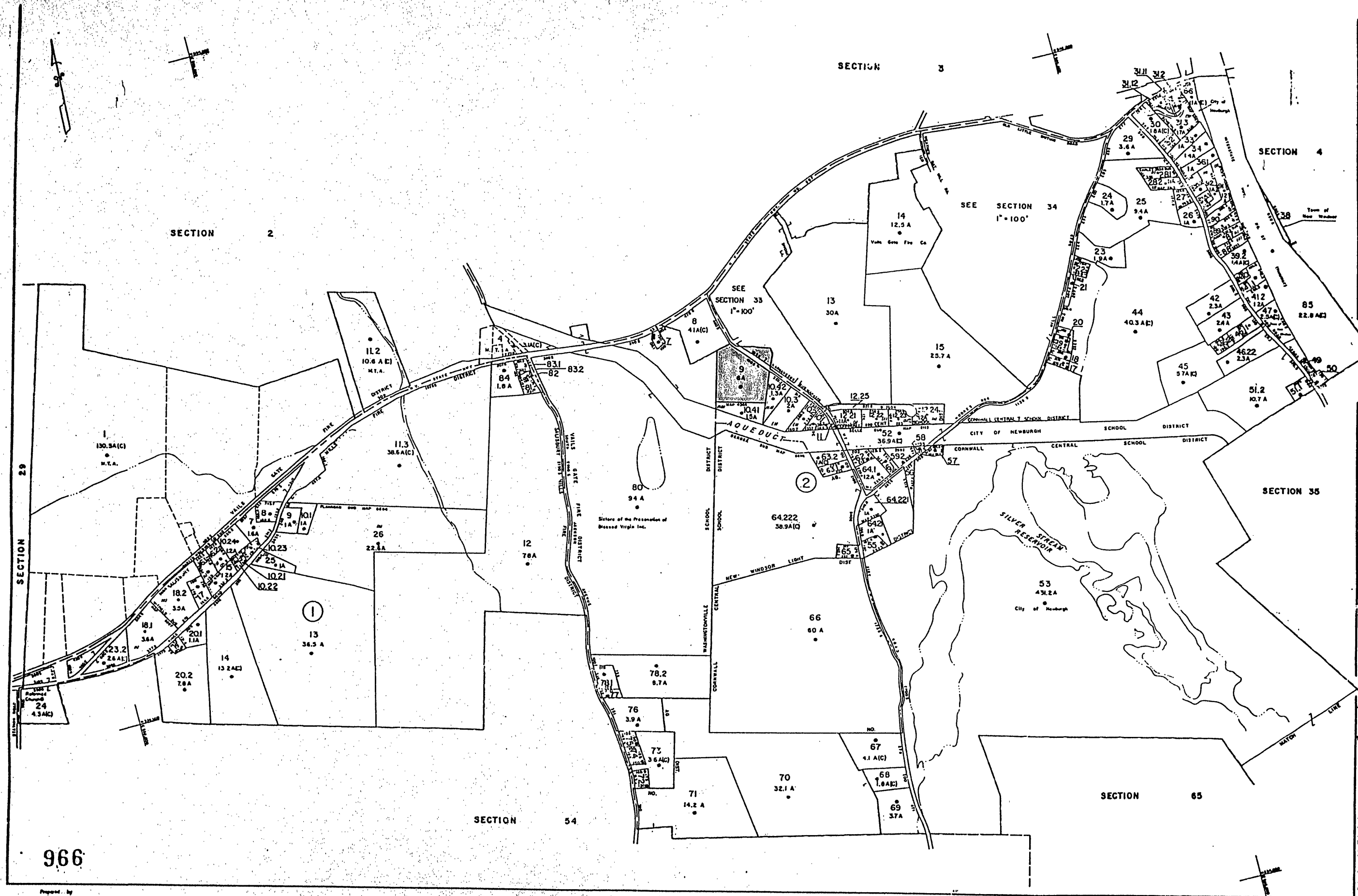
Evangelisto, Joseph J. & Clotilda R.
5 Elizabeth Lane
New Windsor, NY 12553 X

Santillo, Joseph P. & Pamela J. Carman
3 Elizabeth Lane
New Windsor, NY 12553 X

Barbero, Paul & Angela X
1 Elizabeth Lane
New Windsor, NY 12553

Johns, Winthrop D. X
9 Elizabeth Lane
New Windsor, NY 12553

Morris, Gregory A. & Colleen X
11 Elizabeth Lane
New Windsor, NY 12553



966

Prepared by
AERO SERVICE
CORPORATION
A DIVISION OF LITTON INDUSTRIES, INC.
1000 WEST 10TH AVENUE, DENVER, CO. 80202
FOR TAX PURPOSES ONLY

LEGEND			
STATE OR COUNTY LINE	FILED PLAN LOT LINE	TAX MAP BLOCK NO. ④	FILED PLAN BLOCK NO. ② ②
CITY, TOWN OR VILLAGE	EASEMENT LINE	TAX MAP PARCEL NO. 32	FILED PLAN LOT NO.
BLOCK & SECTION LINE	MATCH LINE	AREAS (1"=200') (2"=400') (3"=600') (4"=800') (5"=1000')	STATE HIGHWAYS
SPECIAL DISTRICT LINE	STREAMS	DIMENSIONS (1"=200') (2"=400') (3"=600') (4"=800') (5"=1000')	COUNTY HIGHWAYS

ORANGE COUNTY~NEW YORK

Photo No. 8-499,498,497
Date of Photos 3-1-62

Date of Map 2-24-67
Date of Revision 2-1-69

TOWN OF NEW WINDSOR

Section 32

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

91-35

Date: 12/17/91

I. ✓ Applicant Information:

- (a) Herbert Mason - 110 Mt. Airy Rd. - New Windsor 564-6090
(Name, address and phone of Applicant) (Owner)
- (b) N/A
(Name, address and phone of purchaser or lessee)
- (c) David Kintzer - Hudson Valley Prof. Plaza - Newburgh 561-2258
(Name, address and phone of attorney)
- (d) Anthony Valdina - 4 Pleasant View Ave. - Newburgh 561-8367
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☐ Use Variance ☐ Sign Variance
- ☒ Area Variance ☐ Interpretation

III. ✓ Property Information:

- (a) R-3 110-112 Mt. Airy Rd. 32-2-9+10.41
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? NC
- (c) Is a pending sale or lease subject to ZBA approval of this application? NO
- (d) When was property purchased by present owner? 1931
- (e) Has property been subdivided previously? NO
- (f) Has property been subject of variance previously? NO
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? NO
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: NO
- _____

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow: _____
(Describe proposal) _____
- _____

(b) ^{N/A} The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

V. ✓ Area variance: LOT #1 (Rear Yard)

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12 Table of use/Bulk Regs., Col. G.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd.		
Reqd. Rear Yd. <u>40 Ft.</u>	<u>16.7 FT.</u>	<u>23.3 FT.</u>
Reqd. Street Frontage*		
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____		
Parking Area _____		

* Residential Districts only

** No-residential districts only

✓(b) The legal standard for an "area" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also set forth any efforts you may have made to alleviate the difficulty other than this application.
There is no other way to locate property line and still comply with Town Code. To separate house from property that is joint owned by both Herbert Mason and Barbara Mason Wolf

VI. Sign Variance: ^{N/A}

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
Sign 5	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size

1/1/1
(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

V. ✓ Area variance: Lot #2

(a) Area variance requested from New Windsor Zoning Local Law, Section 279-17, Table of Mobile Home Law Regs., Col. 48-14 (B).

	Requirements	Proposed or Available	Variance Request
set back for mobile Home	Min. Lot Area <u>30' Ft.</u>	<u>9.6 Ft.</u>	<u>20.4 Ft.</u>
	Min. Lot Width		
cessory bldg + back	Reqd. Front Yd. <u>Shed #1 10 Ft.</u>	<u>3 Ft.</u>	<u>7 Ft.</u>
	Reqd. Side Yd. <u>Shed #2 10 Ft.</u>	<u>5 Ft.</u>	<u>5 Ft.</u>
	Reqd. Rear Yd.		
	Reqd. Street Frontage*		
	Max. Bldg. Hgt.		
	Min. Floor Area*		
	Dev. Coverage* %	%	%
	Floor Area Ratio**		
	Parking Area		

* Residential Districts only

** No-residential districts only

(b) The legal standard for an "area" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also set forth any efforts you may have made to alleviate the difficulty other than this application.
There is no other way to locate property line and still comply with Town Code. To separate house from property that is joint owned by both Herbert Mason and Barbara Mason Wolf.

VI. Sign Variance: 1/1/1

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	Requirements	Proposed or Available	Variance Request
Sign 1			
Sign 2			
Sign 3			
Sign 4			
Sign 5			

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size

^{1/1A}
 (b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

V. ✓ Area variance: Lot #3 (Lot Area)

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. D.

Requirements	Proposed or Available	Variance Request
Min. Lot Area <u>21,780 sq. ft.</u>	<u>21,685 Sq. ft.</u>	<u>95 sq. ft.</u>
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

(b) The legal standard for an "area" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also set forth any efforts you may have made to alleviate the difficulty other than this application.
In order for the dedication of 25 ft. FROM center line for Highway purposes creates a need for 95 sq. ft. Lot Area

VI. Sign Variance: N/A

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	Requirements	Proposed or Available	Variance Request
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
Sign 5	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size

signs. *N/A*

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. *N/A*

- (a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.
- (b) Describe in detail the proposal before the Board:

✓ VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

There will be no changes.

✓ IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☒ Copy of contract of sale, lease or franchise agreement.
- ☒ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- N/A* ☒ Copy(ies) of sign(s) with dimensions and location.
- ☒ Checks in the amount of \$150.00 ^{250.00} payable to TOWN OF NEW WINDSOR. *(multifamily fee)*
- ☒ Photographs of existing premises which show all present

X. Affidavit.

Date: 12/17/91

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

x Patricia Mason
(Applicant)

Sworn to before me this

17th day of December, 1991.

Patricia A. Barnhart

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1992.

XI. ZBA Action:

(a) Public Hearing date: _____.

(b) Variance: Granted ☐ Denied ☐

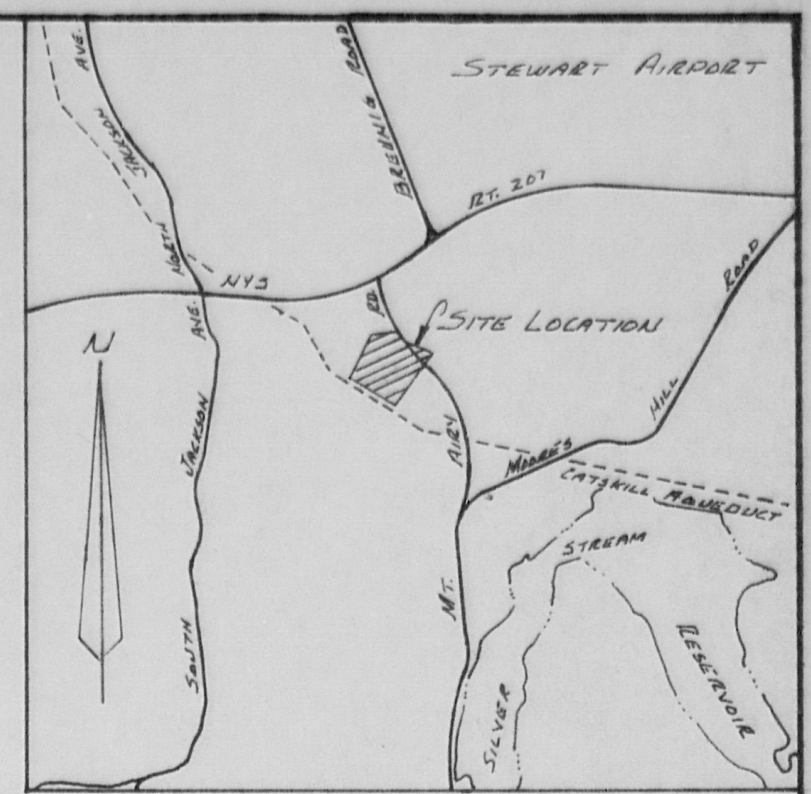
(c) Restrictions or conditions: _____

_____.

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

N/F ST. JOSEPH'S SOCIETY OF NEW YORK INC.
LIBER 880 - PAGE 367
SEC. 32- BLK. 2- LOT 80



SITE LOCATION MAP
SCALE: 1"=2000'

NOTES:

- 1) Unauthorized alterations or additions to this map is a violation of Section 7209(2) of the N.Y.S. Education Law.

Copies of this map not having the original ink or embossed seal of the Land Surveyor shall not be valid.

Guarantees or Certifications are non transferable.

Subject to grants, easements and right of ways of record, if any.

Not responsible for utilities on, over or under the lands and not visible at time of survey.

2) Tax Map Desig.:
Section 32- Block 2- Lot 9 \neq 10.41

3) References:
(A) DEEDS - Liber 1988 - Page 109B
(B) - " 2091- " 817

(c) Map - "Peter & Sophie Karmavezos" #4364

Survey made on 10 June 1991 and no new additions proposed.

2) Lot #1 subject to easements serving Lot #2 and to be maintained by Lot #2; 10' wide for overhead utilities (5' each side of poles); 15' wide for water and sanitary sewer lines (7.5' each side of lines).

(c) Parcel #1 from Deed in note 3A.
 Lot #1 part of parcel 2 from Deed in note 3A.
 Lot #2 part of Parcel 2 from Deeds in note
 3A, 3B and filed map in note 3C.

7) Lot / Area = 37,157 ± Sq. Ft.
Easement = 11,378 ± " "

Remaining Area: 23,719 ± Sq. Ft.

3) Total Property Area:

Lot #1	37,157 [±] " "	=	0.85 [±] "
R.O.W. Dedication		=	0.44 [±] "
Lot #2		=	5.67 [±] "

Total = 7.67 ± Acres

Owner
Herbert Mason & Barbara Mason Wolf
10 Mt. Airy Road
New Windsor, N.Y. 12553

MINOR SUBDIVISION - LANDS OF

HERBERT MASON & BARBARA MASON WOLF

TOWN OF NEW WINDSOR • ORANGE Co. • NEW YORK

SCALE: 1" = 30'

DATE: 23 OCT. 1991
REV: 7 NOV. 1991
REV: 9 DEC. 1991

ZONING REQUIREMENTS
AND VARIANCE REQUESTED

JOB NO.: 91-27
 ANTHONY D. VALDINA
 LAND SURVEYOR
 4 PLEASANT VIEW AVE.
 NEWBURGH, N.Y. 12550
 N.Y.S. LIC. NO. 049120

Certified Correct to, Herbert Mason; and,
Barbara Mason Wolf, from a field
survey made on 10 June 1991.

Anthony R. Valdivia

OWNERS CERTIFICATION

I HEREBY STATE THAT I AM FAMILIAR WITH THIS MAP AND CONSENT TO ITS TERMS AND CONDITIONS AND THE FILING OF SAID MAP IN THE OFFICE OF THE CLERK OF ORANGE COUNTY.

Herbert Mason 11-7-91
OWNER DATE

A/F PETER & SOPHIA KARNAVEZOS
LIBER 1903- PAGE 668
SEC. 32- B/LK. 2- LOT 10.42
LOT #4A "KARNAVEZOS SUBDIVISION MAP #4364"
VACANT

N/F HERBERT MASON
LIBER 1866-PAGE 1
SEC. 33- BLK. 1- LOT
VACANT

N/F WILLIAM & ABBIE ZERILLO
LIBER 2044 - PAGE 234
SEC. 33 - BLK 1 - LOT 21.1